

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

DALI WIRELESS, INC., a Delaware Corporation,)	
)	
)	
Plaintiff,)	Case No. 6:20-cv-01108-ADA
)	
)	JURY TRIAL DEMANDED
)	
v.)	
)	
CORNING, INC., a New York Corporation, and CORNING OPTICAL COMMUNICATIONS LLC, a North Carolina Limited Liability Company,)	
)	
)	
Defendants.)	

[PROPOSED] AGREED SCHEDULING ORDER

The parties submit the following Proposed Agreed Scheduling Order pursuant to Federal Rule of Civil Procedure 16 and the Court's January 22, 2021 email message providing that the Case Management Conference shall be “[d]eemed to have occurred on” February 8, 2021.

The Court therefore ORDERS that the following schedule will govern deadlines up to and including the trial of this matter.

Date	Event
February 1, 2021	Plaintiff serves preliminary ¹ infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date (<i>i.e.</i> , the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.

¹ The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served, and should do so seasonably upon identifying any such material. Any amendment to add patent claims requires leave of court so that the Court can address any scheduling issues.

Date	Event
February 22, 2021	Deadline for Motions to Transfer ²
March 1, 2021	Substantial completion of document production relating to Defendants' motion to transfer.
March 29, 2021	Defendants serve preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendants contend are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendants contend are directed to ineligible subject matter under section 101. Defendants shall also produce (1) all prior art referenced in the invalidity contentions, (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s), and (3) summary, annual sales information for the accused product(s) for the two years preceding the filing of the Complaint, unless the parties agree to some other timeframe.
April 9, 2021	Close of discovery relating to Defendants' motion to transfer. ³
April 16, 2021	Parties exchange claim terms for construction.
April 23, 2021	Plaintiff files Opposition transfer motion brief.
April 30, 2021	Defendants file Reply transfer motion brief.
April 30, 2021	Parties exchange proposed claim constructions.

² Defendants filed their Opposed Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a) on December 30, 2020 (ECF No. 12).

³ Plaintiff is preliminarily amenable to setting a date for completion of venue-related discovery that is earlier than the default of six months set forth in the Court's November 19, 2020 Standing Order Regarding Venue and Jurisdictional Discovery Limits for Patent Cases. Plaintiff reserves all rights to move the Court to extend the period of venue-related discovery up to and including the Court's default date of June 30, 2021, based on the subsequent progress of such discovery (with Plaintiff's deadline to file its brief in opposition to Defendants' motion to transfer to occur 14 days following any such adjourned close of discovery).

Date	Event
May 4, 2021	Parties may commence fact discovery as to third parties, following a meet and confer process in which each such third party shall be specifically identified. To the extent that the parties dispute whether early fact discovery is appropriate as to a particular third party, no such discovery shall commence as to that third party without first obtaining leave of Court.
May 7, 2021	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. ⁴ With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
May 14, 2021	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
May 21, 2021	Plaintiff files Opening claim construction brief, including any arguments that any claim terms are indefinite.
June 11, 2021	Defendants file Responsive claim construction brief.
June 25, 2021	Plaintiff files Reply claim construction brief.
July 9, 2021	Defendants file Sur-Reply claim construction brief.
July 13, 2021	Parties submit Joint Claim Construction Statement. See General Issues Note #8 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
July 16, 2021	Parties submit optional technical tutorials to the Court and technical adviser (if appointed). ⁵
July 26, 2021	<i>Markman</i> Hearing at 9:30 AM for a half day.
July 27, 2021	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).

⁴ Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

⁵ The parties should contact the law clerk to request a Box link so that the party can directly upload the file to the Court's Box account.

Date	Event
September 3, 2021	Deadline to add parties.
September 20, 2021	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.
November 12, 2021	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)
November 22, 2021	Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's Law Clerk to arrange a teleconference with the Court to resolve the disputed issues.
December 14, 2021	Close of Fact Discovery.
December 21, 2021	Opening Expert Reports.
January 24, 2022	Rebuttal Expert Reports.
February 14, 2022	Close of Expert Discovery.
February 21, 2022	Deadline for the second of two meet and confer to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. To the extent it helps the parties determine these limits, the parties are encouraged to contact the Court's Law Clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
February 28, 2022	Dispositive motion deadline and <i>Daubert</i> motion deadline. See General Issues Note #8 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
March 14, 2022	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
March 28, 2022	Serve objections to pretrial disclosures/rebuttal disclosures.

Date	Event
April 4, 2022	Serve objections to rebuttal disclosures and File Motions <i>in limine</i> .
April 11, 2022	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
April 18, 2022	File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Kristie Davis at kmdaviscsr@yahoo.com . Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
April 29, 2022	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
May 2, 2022	Final Pretrial Conference.
May 23, 2022	Jury Selection/Trial.

SIGNED this ____ day of _____, 20 ____.

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

Date: February 4, 2021

Respectfully submitted,

FOLIO LAW GROUP PLLC

/s/ Cristofer I. Leffler

Cristofer I. Leffler, WA Bar No. 35020
Folio Law Group PLLC
14512 Edgewater Lane NE
Lake Forest Park, WA 98155
Tel: (206) 512-9051
Email: cris.leffler@foliolaw.com

Joseph M. Abraham, TX SB No. 24088879
Law Office of Joseph M. Abraham, PLLC
13492 Research Blvd., Suite 120, No. 177
Austin, TX 78750
T: 737-234-0201
Email: joe@joeabrahamlaw.com

Attorneys for Dali Wireless, Inc.

ALSTON & BIRD LLP

By: /s/ Michael J. Newton
Michael J. Newton (TX Bar No. 24003844)
ALSTON & BIRD LLP
2200 Ross Avenue, Suite 2300
Dallas, Texas 75201
Phone: (214) 922-3400
Fax: (214) 922-3899
Email: mike.newton@alston.com

Ross R. Barton (NC Bar No. 37179)
ALSTON & BIRD LLP
101 South Tyron Street, Suite 4000
Charlotte, North Carolina 28280
Phone: (704)444-1000
Fax: (704)444-1111
Email: ross.barton@alston.com

*Attorneys for Defendants Corning, Inc. and
Corning Optical Communications LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of February, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Cristofer I. Leffler
Cristofer I. Leffler